

HOUSE No. 1464

By Ms. Gobi of Spencer, petition of Anne M. Gobi and others relative to fines and penalties for motorists violating rights-of-way laws concerning motorcyclists, bicyclists or pedestrians who suffer serious bodily injury or death. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Anne M. Gobi	Christine E. Canavan
Stephen M. Brewer	Jennifer M. Callahan
Todd M. Smola	Susan C. Fargo
Louis L. Kafka	Jarrett T. Barrios

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO INCREASING THE CIVIL FINES AND FINANCIAL RESPONSIBILITIES AND CRIMINAL PENALTIES OF MOTORISTS WHO VIOLATE THE RIGHT OF WAY OF OTHER MOTORISTS, MOTORCYCLISTS, BICYCLISTS AND/OR PEDESTRIANS, RESULTING IN SERIOUS BODILY INJURY AND/OR DEATH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 8 of chapter 89, as appearing in the 1998
2 Official Edition, is hereby amended by striking out in the last sen-
3 tence the words "thirty-five" and replacing it with "three hundred."

1 SECTION 2. Section 8 of Chapter 89 of the General Laws, as so
2 appearing, is hereby amended by adding at the end of said section
3 the following new paragraph:—

4 Any person who violates the provisions of the paragraph and as a
5 result causes serious bodily injury or death to another operating a
6 motor vehicle, a motorcycle or bicycle, or as a pedestrian, shall be
7 financially responsible to that injured person or persons, or their
8 Estate, for out of pocket medical or funeral expenses, actual lost
9 wages, above what might otherwise be covered by liability insur-

10 ance, and to other insurers who may be obligated to pay such med-
11 ical expenses.

1 SECTION 3. Adding as Section 24Q of Chapter 90, the
2 following: Chapter 90, Section 24Q:—

3 Violating the right of way of another motorists, motorcyclists,
4 bicyclists or pedestrians causing serious bodily injuries or death,
5 Imprisonment and Fine, Minimum Sentence; Definition of “Serious
6 Bodily Injury”; Revocation of License, (1) Whoever, upon any way
7 or in any place to which the public has a right of access, or upon any
8 way or in any place to which members of the public have access as
9 invitees or licensees, operates a motor vehicle in violation of section
10 eight of chapter eighty-nine, or while under the influence of intox-
11 icating liquor, or marihuana, narcotic drugs, depressants, or stimulant
12 substances, all as defined in section one of chapter ninety-four C, or
13 the vapors of glue, and so operates a motor vehicle recklessly or
14 negligently so that the lives or safety of the public might be endan-
15 gered, and by any such operation so described causes serious bodily
16 injury to another operating a motor vehicle, a motorcycle or bicycle,
17 or as a pedestrian, shall be punished by imprisonment in the state
18 prison for not less than two and one-half years nor more than ten
19 years and by a fine of not more than five thousand dollars, or by
20 imprisonment in a jail or house of correction for not less than eight-
21 teen months nor more than two and one-half years and by a fine of
22 not more than three thousand dollars. The sentence imposed upon
23 such person shall not be reduced to less than eighteen months, nor
24 suspended, nor shall any person convicted under this subsection be
25 eligible for probation, parole, or furlough or receive any deduction
26 from his sentence until such person has served at least eighteen
27 months of such sentence; provided, however, that the commissioner
28 of correction may, on the recommendation of the warden, superin-
29 tendent, or other person in charge of a correctional institution, or of
30 the administrator of a county correctional institution, grant to an
31 offender committed under this subsection a temporary release in the
32 custody of an officer of such institution for the following purposes
33 only: to attend the funeral of a relative; to visit a critically ill
34 relative; to obtain emergency medical or psychiatric services
35 unavailable at said institution; or to engage in employment pursuant
36 to a work release program. Prosecutions commenced under this sub-

37 division shall neither be continued without a finding nor placed on
38 file.

39 The provisions of section eighty-seven of chapter two hundred
40 and seventy-six shall not apply to any person charged with a viola-
41 tion of this subdivision.

42 (2) For the purposes of this section “serious bodily injury” shall
43 mean bodily injury which creates a substantial risk of death or which
44 involves either total disability or the loss or substantial impairment
45 of some bodily function for a substantial period of time greater than
46 thirty days.

47 (3) The registrar shall revoke the license or right to operate of a
48 person convicted of a violation of subdivision (1) for a period of five
49 years after the date of conviction. No appeal, motion for new trial or
50 exception shall operate to stay the revocation of the license or the
51 right to operate; provided, however, such license shall be restored or
52 such right to operate shall be reinstated if the prosecution of such
53 person ultimately terminates in favor of the defendant.

54 (4) Whoever, upon any way or in any place to which the public
55 has a right of access, or upon any way or in any place to which
56 members of the public have access as invitees or licensees, operates
57 a motor vehicle while in violation of section eight of chapter eight-
58 nine, or under the influence of intoxicating liquor, or of marihuana,
59 narcotic drugs, depressants, or stimulant substances, all as defined in
60 section one of chapter ninety-four C, or the vapors of glue, and so
61 operates a motor vehicle recklessly or negligently so that the lives or
62 safety of the public might be endangered, and by any such operation
63 so described causes the death of another person while operating a of
64 another motor vehicle, a motorcycle, bicycle or as a pedestrian,
65 shall be guilty of homicide by a motor vehicle in while in violation
66 of section eight of chapter eight-nine, or under the influence of an
67 intoxicating substance, and shall be punished by imprisonment in the
68 state prison for not less than two and one-half years or more than fif-
69 teen years and a fine of not more than five thousand dollars, or by
70 imprisonment in a jail or house of correction for not less than two
71 years and one-half years and a fine of not more than five thousand
72 dollars. The sentence imposed upon such person shall not be reduced
73 to less than two years, nor suspended, nor shall any person convicted
74 under this subsection be eligible for probation, parole, or furlough or
75 receive any deduction from his sentence until such person has served

76 at least two years of such sentence; provided, however, that the com-
77 missioner of correction may, on the recommendation of the warden,
78 superintendent, or other person in charge of a correctional institu-
79 tion, or the administrator of a county correctional institution, grant to
80 an offender committed under this subsection a temporary release in
81 the custody of an officer of such institution for the following pur-
82 poses only: to attend the funeral of a relative; to visit a critically ill
83 relative; to obtain emergency medical or psychiatric services
84 unavailable at said institution, or to engage in employment pursuant
85 to a work release program. Prosecutions commenced under this
86 section shall neither be continued without a finding nor placed on
87 file.

88 The provisions of section eighty-seven of chapter two hundred
89 and seventy-six, shall not apply to any person charged with a viola-
90 tion of this subsection.

91 (5) The registrar shall revoke the license or right to operate of a
92 person convicted of a violation of subsection (4) for a period of ten
93 years after the date of conviction for a first offense. The registrar
94 shall revoke the license or right to operate of a person convicted for
95 a subsequent violation of this section for the life of such person, No
96 appeal, motion for a new trial or exceptions shall operate to stay the
97 revocation of the license or of the right to operate; provided, how-
98 ever, such license shall be restored or such right to operate shall be
99 reinstated if the prosecution of such person ultimately terminates in
100 favor of the defendant.